

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL D. SHERMAN,

Plaintiff,

Case No. 3:09 CV 2409

-vs-

MEMORANDUM OPINION

ANDREW J. SOLOCHA, et al.,

Defendant.

KATZ, J.

On March 26, 2010, this Court granted (Doc. 40) the plaintiff's motion to dismiss the State of Ohio as a defendant, without prejudice. Still pending before the Court is the motion of the remaining defendants for dismissal (Doc. 33) and the plaintiff's motion for leave to file a second amended complaint (Doc. 36). The former motion will be granted, and the remaining claims in this suit dismissed without prejudice. The latter motion will be denied (Doc. 36).

The defendants assert that the filing of the Second Amended Complaint will not moot all of the issues raised in their motion to dismiss. The plaintiff has identified his claims for "non-production and spoliation of evidence" arising out of related state-court litigation as the claims which remain in this action. The Court agrees with the defendants, however, that the proper forum for plaintiff to pursue these claims is the court in which discovery was initially sought, not this Court. The plaintiff appears from that before the Court to concede, however, that his remaining claims are not ripe for litigation in this Court at this time; instead, the issues remaining in this suit relate to alleged discovery violations in the underlying case before the Court of Claims.

Because the plaintiff is no longer pursuing his other claims in this suit, the defendants' motion for dismissal is granted, and the claims in this suit are dismissed without prejudice.

IT IS SO ORDERED.

s/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE